

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

ROBERT EARL BROWN

PLAINTIFF

V.

CIVIL ACTION NO. 3:08cv602-DPJ-JCS

SMITH COUNTY, et al.

DEFENDANTS

ORDER OF DISMISSAL

This matter is before the Court *sua sponte* to consider dismissal of this action pursuant to Rules 4(m) and 41(b) of the Federal Rules of Civil Procedure due to Plaintiff's failure to prosecute and failure to comply with the previous order of this Court.

Plaintiff filed the Complaint on September 30, 2008. On June 26, 2009, the Court entered an order giving Plaintiff through August 14, 2009, to serve Defendants and file proofs of service. On November 6, 2009, Judge Sumner ordered Plaintiff to show cause in writing by November 27, 2009, as to why the action should not be dismissed. To date, Plaintiff has not responded to this Court's order.

This Court has the authority under Rule 41(b) of the Federal Rules of Civil Procedure and under its inherent authority to dismiss this action for Plaintiff's failure to prosecute and failure to comply with orders of the Court. *See Link v. Wabash R.R.*, 370 U.S. 626 (1962); *Larson v. Scott*, 157 F.3d 1030 (5th Cir. 1998); *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). Such a "sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars" of the Court. *Link*, 370 U.S. at 629-30.

IT IS, THEREFORE, ORDERED that this case is dismissed without prejudice pursuant to Federal Rules of Civil Procedure 4(m) and 41(b) and the Court's inherent authority.

SO ORDERED AND ADJUDGED this the 1th day of December, 2009.

s/ Daniel P. Jordan III
UNITED STATES DISTRICT JUDGE